



புதுச்சேரி மாநில அரசிதழ்

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GOVERNMENT OF PUDUCHERRY
LABOUR DEPARTMENT

(G.O. Rt. No. 87/AIL/Lab./T/2020,
Puducherry, dated 16th July 2020)

NOTIFICATION

Whereas, an Award in I.D. (L) No. 39/2017 dated 05-03-2020 of the Industrial Tribunal-cum-Labour Court, Puducherry, in respect of the industrial dispute between the management of M/s. Jayaprakash Narayanan Co-Operative Spinning Mill, Neravy, Karaikal and Thiru G. Kumaravel, Karaikal, over re-instatement has been received;

Now, therefore, in exercise of the powers conferred by subsection (1) of section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), read with the notification issued in Labour Department's G.O. Ms. No. 20/91/Lab./L, dated 23-05-1991, it is hereby directed by the Secretary to Government (Labour) that the said Award shall be published in the Official Gazette, Puducherry.

(By order)

S. MOUTTOULINGAM,
Under Secretary to Government (Labour).

**BEFORE THE INDUSTRIAL TRIBUNAL AT
PUDUCHERRY**

Present: Thiru V. PANDIARAJ, B.Sc., LL.M.,
Presiding Officer.

Thursday, the 5th day of March 2020.

I.D. (L) No. 39/2017

G. Kumaravel, s/o. Gunasekaran,
No. 62, Karudapalaiya Theru,
T.R. Pattinam, Karaikal. . . Petitioner

Versus

The Managing Director,
M/s. Jayaprakash Narayanan
Co-operative Spinning Mill,
Keezhamanai, Meladuthurai,
Neravy, Karaikal. . . Respondent

This Industrial Dispute coming on this day before me for final hearing in the presence of Thiru Ilango Krishnamoorthy, Counsel for the petitioner and Thiruvalargal S. Sankaralingam and P. Djeasilane, Counsels for the respondent, upon hearing, upon perusing the case records, after having stood over for consideration till this day, this Court passed the following:

AWARD

1. This Industrial Dispute has been referred by the Government of Puducherry as per the G.O. Rt. No. 99/AIL/Lab./T/2017, dated 28-06-2017 for adjudicating the following:-

(a) Whether the dispute raised by Thiru G. Kumaravel, Karaikal, against the management of M/s. Jayaprakash Narayanan Co-operative Spinning Mill, Karaikal, over reinstatement is justified or not? If justified, what relief he is entitled to?

(b) To compute the relief if any, awarded in terms of money if, it can be so computed?

2. *Brief of the claim petition:*

The petitioner was employed as apprentice on 18-12-2003 and thereafter, he was made permanent 01-07-2012. On 20-08-2014 the respondent/management has suspended the petitioner with false allegation that he was continuously absent without filing any leave application and it has issued the charge-sheet, dated 11-09-2014, for which this petitioner has given his reply on 15-09-2014. Thereafter, there was no response from the respondent/management. In the meanwhile, this petitioner received a communication, dated 02-02-2015 from Advocate C. Balasubramanian, Thirunallar, directing him to attend the enquiry on 15-02-2016. This petitioner appeared before the Enquiry Officer and stated that the management has to refer the matter for arbitration under section 10 (A) of Industrial Dispute Act. The Enquiry Officer had not let his ears to the representation made by this petitioner and he failed to record the objection to the continuation of enquiry. However, this petitioner attended the enquiry proceedings with protest. The Enquiry Officer has not conducted the enquiry in a free and fair manner. The Enquiry Officer has not given chances to this petitioner for cross-examination of the witnesses and he has failed to record the objection raised by this petitioner. Further, the Enquiry Officer has conducted the enquiry in an eye washed manner and he compelled this petitioner to admit the charges. Thereafter, the enquiry proceedings were kept in abeyance by the Enquiry Officer. In the mean time, the respondent management issued a letter, dated 20-05-2016 to this petitioner and directed this petitioner to produce the Medical Certificate. This petitioner has given his reply on 27-05-2016 with Medical Certificate and seeks extension of leave to him. Further, the respondent/management issued a letter, dated 04-06-2016 and directed him to join duty within 7 days. It has not considered the request of this petitioner to extend his leave. He reported to duty on 10-06-2016 in obedience

to the direction given by the respondent/management and he was not permitted to the working spot and he was forced to tender an unconditional apology letter. This petitioner refused to do the same. The respondent/management forced this petitioner to give such apology letter, in order to treat the suspension period from 20-08-2014 to 10-06-2016 as a punishment for the charges of absence leveled against him. The Enquiry Officer has not given the list of documents and witness list marked on the side of the respondent/management and he has not obtained the signatures on the day to day proceedings of the enquiry. The Enquiry Officer has not furnished the enquiry report to this petitioner and he has acted in biased manner. The enquiry conducted by the Enquiry Officer was unfair and unjust and therefore, the punishment order, dated 28-07-2016 was also unjust and *mala fide*. It is not based on the enquiry report nor on any other charges fixed by the management. The respondent/management has failed to issue second show cause notice before awarding punishment order, dated 28-07-2016. Therefore, this petitioner approached the Conciliation Officer on 29-09-2016. The conciliation proceedings were also ended in failure on 30-05-2017 *vide* its failure report. Hence, this petition has to be allowed and the respondent/management has to be directed to pay a sum of ₹ 2,00,000 as damage. Further, it may be directed to reinstate this petitioner into service with the back wages and all other monetary benefits.

3. Brief of the counter:

All the averments in the claim statement is denied as false except those are specifically admitted by the respondent in the counter. The respondent admitted that this petitioner was permanently employed during the year 2012. The petitioner was always a chronic absentee and he was absent for so many days without prior permission, right from the joining of the duty in the respondent/management. He was always negligent and indiscipline in his work and the following memos/warnings were issued to him.

Sl. No.	Date	Ref. No.	Details of Misconduct and Action Taken
(1)	(2)	(3)	(4)
1	15-03-2007	26	1st memo for unauthorized absence for duty for 9 days in February-2007.
2	17-05-2007	26	2nd memo for unauthorized absence for duty for 19 days in March-2007.

(1)	(2)	(3)	(4)
3	17-05-2007	26	3rd memo for unauthorized absence for duty for 13 days in April-2007.
4	09-07-2007	26	Warning notice No. 1 for unauthorized absence for duty for 18 days in May-2007.
5	01-09-2007	26	Warning notice No. 2 for unauthorized absence for duty for 19 days in July-2007.
6	11-10-2007	26	Warning notice No. 3 for unauthorized absence for duty for 18 days in August-2007.
7	11-03-2014	1411	Warning notice for negligence in work on 08-03-2014.
8	04-04-2014	98	Memo for unauthorized absence for duty for 10 days in March-2014.
9	13-05-2014	548	Show cause notice for unauthorized absence for duty for 15 days in April-2014,
10	28-06-2014	1209	Warning memo for unauthorized absence for duty for 21 days in May-2014.
11	19-08-2014	1655	Order of suspension for unauthorized absence for duty in the year 2014.
12	11-09-2014	1840	Charge-sheet for willful unauthorized absence from duty.

(ii) The allegation of non compliance of section 10 (A) of Industrial Dispute Act is not at all relevant to this case. The respondent/management has issued charge-sheet, dated 11-09-2014 for his long absence. For which this petitioner has filed his reply on 15-09-2014 wherein, he has stated that he was suffering from various ailments and he had been medically advised that, he was unsuitable to spinning mill work. However, he has not produced any supporting Medical Certificates in favour of his explanation. Thereafter, this petitioner approached the Conciliation Officer, Karaikal on 20-11-2014, wherein, he has admitted his various spells of unauthorized absence from duty in the year 2014. The respondent/management also filed its reply on 04-12-2014, wherein, also the respondent/management has stated that it is ready to give duty to this petitioner, if he produce, necessary Medical Fitness Certificate. In spite of that offer, this petitioner failed to produce the same and continuously remained as absent

without filing any leave letter. His absence was unauthorized and wantonly. Therefore, the respondent management appointed the Enquiry Officer to conduct Domestic Enquiry regarding his unauthorized absence. This petitioner appeared before the Enquiry Officer on 15-02-2016 and at his request the proceedings were adjourned to 15-03-2016 and 09-05-2016. The enquiry proceedings were adjourned at his request as a measure of giving a fair opportunity to this petitioner. Even during the enquiry proceedings also this petitioner failed to produce his Fitness Certificates and Medical Certificate. In the meanwhile, the petitioner has sent a letter, dated 10-03-2016 with a copy of Medical Certificate issued by the Private Medical Officer and thereby, seeks leave for treatment up to the end of year for his abdominal pain and ulcer. Further, he has sent another letter on 11-05-2016 stating that he was advised to take treatment for more than 3 months by his Medical Officer and thereby, seeks leave for 3 months. With that leave letter also he has not enclosed any Medical Certificate. Furthermore, in the abovesaid leave application, he has falsely stated that he attended the enquiry proceedings on 15-03-2016 and 09-05-2016. Thereafter, this respondent/management sent another letter on 20-05-2016 and directed him to produce the Medical Certificate in support of his leave application. For which this petitioner sent reply on 27-05-2016, without any Medical Certificate. Thereafter, again the respondent/management sent another letter on 04-06-2016 to produce the Medical Documents about his ill-health. In response to the letter, dated 04-06-2016 by the management, the petitioner appeared in person on 10-06-2016 to the time office of the mill, near the entrance of the mill and informed that he had come to attend duty in the morning shift and so he has to be allowed to work and he would attend his duty without any leave in future. But, he left abruptly without attending the shift duty on that day and on the following days also and thereby, he remained absent continuously unauthorisedly. Therefore, this respondent/management again sent another letter on 22-06-2016 and advised this petitioner to report duty within 3 days failing which it would remove the name of the petitioner in the muster role as per the standing order of the mill. However, he failed to report duty and he failed to produce the Medical Certificate as demanded by the respondent/management. Again on 11-07-2016 the respondent/management has given a final notice and directed him to report duty within 3 days. Even then, this petitioner failed to give any response to the abovesaid final notice. Hence, the respondent/management has removed the name of the petitioner from muster role on 28-07-2016 and it was also intimated to this petitioner. This petitioner was irregular and absent to duty from the year 2014 itself.

The respondent/management has given repeated request letters to the petitioner to attend duty on various dates such as 04-04-2014, 28-06-2014, 19-08-2014, 11-09-2014, 20-05-2016, 04-06-2016, 22-06-2016 and 11-07-2016. Since, the petitioner failed to produce the Medical Certificate to regularize his long absence, the respondent/management has finally dismissed this petitioner. Therefore, the grounds raised by this petitioner in the claim petition are nothing, but, utter lie and therefore, it has to be dismissed with cost.

4. On perusal of records, it is found that while the case was adjourned for enquiry on 27-02-2020, both parties appeared before this Court and filed the memorandum of settlement stating that the entire dispute was settled out of Court and they represented that the award may be passed in terms of settlement arrived between them on 27-02-2020. To that effect they have filed the Joint Memorandum of settlement signed by both parties, dated 27-02-2020.

5. The Joint Memorandum of settlement, dated 27-02-2020 was perused. The terms of settlement was as follows:

(i) The respondent/management will reinstate the petitioner into the services of the mill with immediate effect.

(ii) The petitioner/workman will not claim any back wages for the period from the date of termination, till the date of settlement.

(iii) The respondent/management will reinstate the petitioner/workman with continuity service.

(iv) The petitioner/workman will not claim any monetary/service benefit for the period from the date of termination till the date of reinstatement.

(v) The respondent/management shall arrange to relieve the petitioner/workman from the services of the mills under the special voluntary retirement scheme, which is in vogue/force in the mills, without any other conditions if, the petitioner/workman submits application under the scheme. Both parties pray this Court to approve the above proposed settlement and pass order and Award accordingly.

6. Since, the dispute has been amicably settled out of Court between the parties as per the Joined Memorandum of settlement, the management has endorsed that they have no objection to record the settlement and to close the reference. The petitioner also reported that the dispute is settled out of Court and he had no objection to close the reference as per of terms of settlement.

Hence, considering the facts and circumstances of the case and considering the memorandum of settlement, this Court inclined to pass an Award as per the terms of settlement ended between the parties on 27-02-2020.

7. In the result, the Award is passed in terms of settlement arrived between both parties on 27-02-2020 and as per the Joined Memorandum of settlement, dated 27-02-2020 filed before this Court. No cost.

Dictated to Stenographer, transcribed by him, corrected and pronounced by me in the open Court on this the 5th day of March, 2020.

V. PANDIARAJ,
Presiding Officer,
Industrial Tribunal-cum-
Labour Court, Puducherry.

**GOVERNMENT OF PUDUCHERRY
DIRECTORATE OF SCHOOL EDUCATION**

No. 04021/DSE/Estt.-IV/C/2019.

Puducherry, the 2nd September 2020.

ORDER

Sub. : DSE-Estt.-IV-Thiru S. Stalin Rabindranath, Secondary Grade Teacher (redesignated as Primary School Teacher), GPS, Murungapakkampet, Puducherry-Final orders for deemed resignation-issued.

Ref. : (1) Office Order No. 7870/DDE(W)/Estt./E.6/92/2332, dated 27-05-1992 of the Deputy Director of Education(Women), Puducherry.
(2) Letter, dated 12-08-2015, 29-03-2018 and 21-03-2019 of Thiru S. Stalin Rabindranath, Secondary Grade Teacher (redesignated as Primary School Teacher), GPS, Murungapakkampet, Puducherry.

Whereas, Thiru S. Stalin Rabindranath while working as Secondary Grade Teacher (now re-designated as Primary School Teacher) in GPS, Murungapakkampet, Puducherry, was granted Extraordinary Leave for one year from 01-06-1992 to 31-05-1993 without Medical Certificate, for his visit to France, with instruction to report for duty on or before 01-06-1993 failing which it will be presumed that he has resigned his job with effect from 01-06-1993 as per the undertaking given by him;

And whereas, Thiru S. Stalin Rabindranath did not join duty, and therefore a show cause notice was issued to him by the Deputy Director of Education (Women),

Puducherry *vide* No.7870/ DDE(W)/ Estt./E4/95/354, dated 22-05-1995, *inter alia*, seeking his explanation for not joining duty;

And whereas, in reply to the abovesaid letter, Thiru S. Stalin Rabindranath had submitted a letter, dated 26-06-1995 to the Deputy Director of Education (Women), Puducherry from France requesting for extension of EOL till end of the academic year 1995-96 citing poor health condition of his wife. However, he did not care to join duty all along. After a lapse (unauthorized absence from duty) of more than 25 years *i.e.*, on the verge of attaining the age of 60 years, he tried to take advantage of the situation by offering to join duty;

And whereas, Thiru S. Stalin Rabindranath, subsequently filed O.A. No. 310/00040/2019 in the Hon'ble CAT, Madras Bench. The Hon'ble CAT, disposed the O.A on 28-01-2019 with the direction "To consider the representations of the applicant *vide* letter, dated 12-08-2015 and 29-03-2018 in accordance with law and pass a reasoned and Speaking Order within a period of three months from the date of receipt of copy of this order";

And whereas, in compliance with the orders, dated 28-01-2019 of the Hon'ble CAT, Madras Bench, a Speaking Order rejecting his request was issued *vide* No. 04021/DSE/Estt.-IV/C/2019, dated 04-09-2019 in the light of the extant legal provisions and rules in force.

And whereas, Rule 12 of the CCS (Leave) Rules, 1972, stipulates *inter alia* that no Government Servant shall be granted leave of any kind for a continuous period exceeding five years. Further, it states that a Government Servant who remains absent from duty for a continuous period exceeding five years other than on foreign service, with or without leave, shall be deemed to have resigned from the Government Service;

And whereas, Thiru S. Stalin Rabindranath was on unauthorized absence from 01-06-1993 till the date of attaining the age of 60 years (*i.e.*, on 31-03-2019); he has deserted Government Service;

Now, therefore, the Lieutenant-Governor is pleased to order that Thiru S. Stalin Rabindranath, Secondary Grade Teacher (now redesignated as Primary School Teacher) in GPS, Murungapakkampet, Puducherry, is deemed to have resigned from Government Service with effect from the forenoon of 01-06-1993. He shall not be entitled for any payment from the Government.

(By order of the Lieutenant-Governor)

P. T. RUDRA GOUD,
Joint Secretary to Government
(School Education).